# ROYAL COMMISSION ON TRANSPORTATION

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# JOINT SUBMISSION

Of

THE GOVERNMENT of the PROVINCE of ALBERTA
THE GOVERNMENT of the PROVINCE of SASKATCHEWAN
THE GOVERNMENT of the PROVINCE of MANITOBA

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# CROW'S NEST PASS RATES ON GRAIN AND GRAIN PRODUCTS

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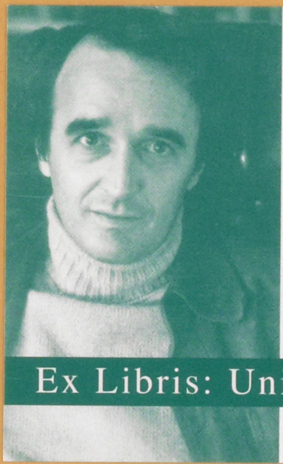
Ottawa, Canada,
January, 1950.



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# FOREWORD

The Joint Submission to the Royal Commission on Transportation on the Crow's Nest Pass Rates constitutes the combined views on the subject of the Governments of Alberta, Saskatchewan and Manitoba.

Its preparation was necessitated by the attack upon the Crow's Nest rates and their continued protection by statute, launched by the Canadian Pacific Railway Company in its submission and in its evidence before the Royal Commission. Immediately Crow's Nest rates were made an issue in the Commission inquiry, the three prairie Governments took steps to ensure that the case for their preservation would be adequately and vigorously presented. Consequently, the technical advisers of the three provinces drafted the Brief which was presented to the Royal Commission.

The importance attached by our Governments to the preservation of present grain rates under the protection of Parliament and the vital part which these rates play in maintaining a degree of security and stability in a highly fluctuating grain growing economy, are such that our Governments decided to make this Submission available in printed form for the information of the public. Freight rates on grain in western Canada are a matter of deep concern to agricultural interests and equally, but in a somewhat less direct manner, to those engaged in other pursuits in the three Prairie Provinces and elsewhere throughout Canada.

This Joint Submission reflects the united stand taken on this vital issue by the Governments of the Prairie Provinces in the interests of the welfare of their people.

Ernest Manning

*Premier of Alberta.*

T. C. Douglas

*Premier of Saskatchewan.*

Douglas Campbell

*Premier of Manitoba.*

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# PART I

## HISTORICAL ANALYSIS OF THE CROW'S NEST PASS AGREEMENT AND RATES

The Crow's Nest rates on grain and flour have been attacked before the Commission as a "pure historical survival." They *are* an historical survival but this fact does not constitute an argument for their removal. It does indicate clearly the nature of these rates and emphasizes the need for historical analysis in order that their origin, purposes and inherent necessity may be understood. The rates in question are contractual rates, instituted and maintained in fulfilment of the terms of a voluntary agreement between freely contracting parties. Though their field of application has been expanded by legislative action in certain directions it has been restricted in others, with little possibility that the balance of advantage or disadvantage from such adjustments can be appraised with any degree of accuracy.

It is our contention that among the strongest of the arguments which exist for the maintenance of Crow's Nest rates as statutory rates and at their present level are those arguments which relate to historical circumstance. It is necessary, therefore, to examine the conditions under which they were agreed upon and introduced.

Crow's Nest rates were introduced by the Canadian Pacific Railway in conformity with an agreement made under an Act of the Federal Government in 1897 (*Statutes of Canada*, 60-61 Vic., c. 5). The Government agreed to grant the C.P.R. a subsidy of $11,000 per mile, but not exceeding a total of $3,630,000, for the construction of a railway from Lethbridge, Alberta, through the Crow's Nest Pass to Nelson, British Columbia. The C.P.R., on its part, agreed to build the railway to specifications as to standard, location and time; it agreed to permit control of certain of its rates; and it agreed to introduce specific reductions in certain other rates. The latter rates as reduced in accordance with the Agreement have come to be known as "Crow's Nest" rates.

The rate changes agreed to by the C.P.R. were the following:[1]

(a) a reduction in perpetuity of three cents per hundred pounds on grain and flour from points on Canadian Pacific lines then existing in the West to Fort William and points east thereof;

(b) a reduction in perpetuity of varying percentages on certain commodities from points on Canadian Pacific lines then in existence in Eastern Canada to points on Canadian Pacific lines then in existence in the West. The specified commodities included such items as agricultural implements, all kinds of wire, iron, nails and spikes, binder twine, roofing and building paper, window glass, paints and oils, and furniture. The reductions varied from 10 to 33⅓ per cent. and were commonly of the former figure.

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[1] See *Statutes of Canada*, 60-61 Vic., c. 5, 1897, Sections: 1 (d) and 1 (e); see also *Submission of Canadian Pacific Railway to the Royal Commission on Transportation* (Montreal, 1949), Part I, p. 154.

One part of the Crow's Nest Pass Agreement, therefore, provided for assistance for the construction of a direct rail link between the Kootenay Valley and the transcontinental line of the C.P.R. This marked an important new step in the development and integration of the Canadian economy. The other part of the Agreement, however, concerned the Prairie Provinces particularly and related to rate reductions on existing lines of railway rather than the construction of new lines. This part of the Agreement, then, broke no new ground and constituted merely a continuation of the prolonged effort of the Federal Government to secure adequate transportation facilities for the Prairie region and to assure the provision of these facilities to the settlers at reasonable rates. As such, the Agreement was but one further step in the working out of the National Policy.

It must be emphasized that the rate concessions made by the C.P.R. in accordance with the Crow's Nest Pass Agreement were specific to a particular region, to particular commodities, and to particular movements of those commodities. The Agreement did not require or aim at a general lowering of rates on all traffic. The reductions on eastbound traffic were limited to grain and flour moving to Fort William and beyond. These reductions were designed to improve the competitive export position of the cash staple of the Prairie region and thus to encourage that type of economic activity without which the region could not be developed. The reductions on westbound traffic applied to certain commodities, particularly agricultural implements and building supplies, moving from eastern production centres into the West. These reductions involved the dual purpose of providing western settlers with cheaper capital equipment and of assuring that the maximum possible proportion of this equipment should be supplied by eastern Canadian factories and carried to the West over Canadian railways.

The Crow's Nest rate reductions as a group, therefore, were clearly directed toward the furtherance of economic development in the Prairie region and toward the linking of that development with the eastern Canadian economy. This is the basis on which the Crow's Nest Pass Agreement, which embodied these rate reductions, must be recognized as a further step in the implementation of the National Policy.

In order to understand the importance which attached to the furtherance of economic development in the Prairie region at the time of the Crow's Nest Agreement it is necessary to review the central features of the National Policy.[2] The central point in that policy was that it envisioned the solution of the economic perplexities of the St. Lawrence and the Maritime provinces by the encouragement of interprovincial trade and by the expansion of the field of economic activity. The construction of the Intercolonial Railway, combined with tariff protection, would accomplish all that could be accomplished in the way of stimulating trade among the territories which were already developed. As for any significant measure of expansion of economic activity, the only possibilities lay in the western territories, particularly in the region of the central plains. Gold discoveries on the Fraser River in

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[2] For a fuller analysis of the National Policy see the *Submission of the Province of Saskatchewan to the Royal Commision on Transportation* (Regina: King's Printer, 1949), Part II.

the eighteen-fifties and in the Cariboo in the eighteen-sixties strongly suggested the possibility of economic development in the coastal area and intermountain valleys as well.

In the early days of the formulation of the National Policy the economic potentialities of the western Canadian Plains were quite uncertain. There were many who dismissed the prairie West as unworthy of serious consideration. The Hudson's Bay Company, which held proprietorship over Rupert's Land till 1869, argued that the entire area was useless except as a fur-trader's preserve. There were, nevertheless, fragmentary and inconclusive bits of evidence which, taken collectively, lent support to the view that the plains area north of the 49th parallel of latitude was not entirely devoid of agricultural possibilities. Palliser and Hind, viewing the region in the late eighteen-fifties for the Imperial Government and for the Province of Canada, respectively, both reported substantial areas of fertile land between the Shield and the Rocky Mountains. The American tide of settlement swept northward as well as westward around Lake Michigan. The Red River Settlement was firmly if modestly established beyond the western margins of the Canadian Shield.

Though prospects for western expansion were highly uncertain at the time of Confederation, and after, they were none the less actively promoted by certain eastern newspapers such as the Toronto *Globe*. They were also strongly advanced by a number of members in the Canadian Legislature in the Confederation Debates of 1865. The analogy with American experience was prominent in their reasoning, the argument being that western produce would move through the eastern provinces as it did through the eastern states and that the West would provide a substantial new market for the products of eastern manufacturers.[3] After Confederation an ever-strengthening faith in the possibility of economic expansion in the central plains impelled the Federal Government to undertake important and, in some cases, costly measures which could only be justified if that economic expansion could be attained. Title to the western territories was secured from the Hudson's Bay Company, a land settlement policy was devised, immigration was fostered, and a Pacific railway was built. Finally, protective tariffs were adopted to assure the funnelling of the inward and outward trade of the newly-developing area through the eastern provinces.

The costliest of the prerequisite instruments of the National Policy were the railways—one to link the St. Lawrence with the Maritimes, and one to link the St. Lawrence with the Pacific Coast. Expediency rather than fundamental principle dictated whether these railways would be built by the state or by private companies substantially financed by state benefactions and guarantees. The Intercolonial Railway was built as a government undertaking. The construction of the Pacific railway was attempted both

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[3] See for example the statement of W. McGiverin (Lincoln, Upper Canada): "What then may we not expect our great North-West to become? If we had it opened up, Canada would be the carriers of its produce, as the Middle States are the carriers of the Western States, and the manufacturers of its goods as the Eastern States are now the manufacturers of the goods consumed by the West." (*Canadian Confederation Debates*, p. 470.)

ways and was finally completed by a private syndicate well fortified by government grants of cash, land, completed line, security guarantees, tax exemptions, freedom from rate control, and a monoply clause. Legally the Intercolonial Railway and the Canadian Pacific Railway emerged as distinct and sharply contrasting types of institutions—the one, state; the other, private. Functionally they began and continued as substantially similar institutions—agencies of the state designed for the furtherance of the National Policy.

The concessions made by the Federal Government to the Canadian Pacific syndicate were adequate to secure the completion of the railway across the Shield and plains to the Pacific. But the railway, operating under these concessions, did not assure the rapid settlement and economic expansion of the West. The monoply clause, combined with a practical exemption from rate control, left the Company in a position of security against the threat of competition and with a freedom in the determination of rates and services which was not conducive to agricultural expansion in the western territories. Modifications were imperative in order that the Canadian Pacific Railway might better serve its intended purpose in regard to western economic expansion. The monopoly privilege was the first to go and was withdrawn in 1888. Rates on imports into and exports from the Canadian West remained unsatisfactory to the settlers and acted as a deterrent to western agricultural expansion. In 1897, the newly elected Liberal Government, convinced of the importance of promoting western settlement, seized an opportunity which presented itself at that time to secure a substantial readjustment of western freight rates by agreement with the Canadian Pacific Railway.

Gold discoveries in the Kootenay Valley of British Columbia in the eighteen-eighties prompted intensive prospecting in the area which, in turn, led to the discovery of rich silver and base-metal properties and the development of a considerable mining activity. The north-south position of the mountain ranges and intervening valleys and the location of the mineral areas in close proximity to the American boundary made the locality much more readily accessible to American territory and to American water and rail communications than to Canadian. Base-metal extraction required smelting which posed the problem of securing adequate supplies of coking coal. Smelters were already located at the American coast and in the inland states. American railways were built northward into the region and the ores moved by waterway and over these railways to the American smelting centres. The whole area could readily have become a hinterland to the northwestern states.

Such a development would, however, have constituted a major breach in the National Policy which required that economic development in Canadian territory should be integrated into the Canadian economy rather than the American. Specifically the Canadian Pacific Railway was vitally interested in assuring that the supply and the outward movement of the produce of this region should move over Canadian Pacific lines instead of being drawn southward to move over American transcontinental railways.

As early as 1889, the C.P.R. was impressed with the importance of diversity of traffic and of territory for the assurance of their earnings position. The Company's Annual Report for that year stated in part:

"While the results of the harvest will always be a matter of great importance as affecting the earnings of the railway, the past year has shewn that it is already comparatively independent of the crops of any one Province or any one season. This is in part due to the vast extent and great diversity in the character of the territory covered by the lines of the Company,... in part to the development of mining and other industries not affected by local causes...."[4]

At the same time the C.P.R. was specifically interested in the mineral developments taking place in the Kootenay and Columbia Valleys. There were two problems, the first to improve the transportation facilities within the region, and the second to link the region with the main line of the Canadian transcontinental railway. Local transportation required the linking of the Columbia and the Kootenay Valleys by rail. As for the link between the region and the C.P.R. main line, this could be effected by joining the Arrow Lakes to the transcontinental by a short, north-south branch line, or by building westward from a point on the main line on the plains, through the Crow's Nest Pass to the Kootenay mining territories.

From 1889 to 1896 the C.P.R. was active in securing control of local transportation within the Kootenay-Columbia territory and in establishing rail connections between their main line and the Upper Arrow Lake. The Annual Report of the Company for 1889 contains the following statement:

"To prevent the invasion, by foreign lines, of the Kootenay District, in British Columbia—a district rich in precious metals and other natural resources—your Directors have secured the control of the charter of the Columbia and Kootenay Railway Company, and agreed with the Provincial Government that the railway shall be built, about thirty miles in length, during the present season, to connect the navigation waters of Kootenay Lake with those of the Columbia River, thus opening a line of steamboat and railway communication of more than 250 miles...."[5]

To assure control of the steamboat portions of this route the C.P.R. in 1890 leased for 999 years the Columbia and Kootenay River Navigation Company.[6] In 1893 the Company leased the Nakusp and Slocan Railway which connected the Upper Arrow Lake at Nakusp with the Slocan mining district.[7] Between 1893 and 1896 a branch was built from the main line of the C.P.R. at Revelstoke to Arrowhead on the Upper Arrow Lake[8]. Over the same years the Company constructed and acquired various short lines to serve the mining area more effectively.

Meanwhile a variety of factors pointed to the desirability of a rail line linking the Kootenay with the main line of the C.P.R. by way of Crow's Nest Pass. In the first place, such a line would give an all-rail entry to the region from Canadian territory while the link at Revelstoke was rail-

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4 *Canadian Pacific Railway, Annual Report for the year 1889*, pp. 12-13.

5 *Ibid.*, p. 18.

6 Innis, H.A., *A History of the Canadian Pacific Railway*, (Toronto, 1923), p. 141.

7 *Ibid.*, pp. 141-2.

8 *Ibid.*, p. 142.

lake-and-rail, with the resultant necessity for trans-shipments. Second, great resources of coking coal were found at the Crow's Nest Pass. Third, rail connections were already constructed from the Prairies toward the Crow's Nest Pass in a line built in 1885 from Dunmore, Alberta, to Lethbridge for the development of coal properties in the Lethbridge region. In 1892 the Dominion Government made statutory provision for the extension of this line through the Crow's Nest Pass to Hope, British Columbia. The C.P.R. proposed the absorption and extension of this line. The Annual Report of 1892 contains the following statement:

> "Negotiations are pending with the Alberta Railway and Coal Company for the lease and subsequent purchase of that Company's line extending from Dunmore to the coal mines at Lethbridge, 109 miles. Your authority will be asked to lease the line in question at a rental of 40 per cent. of its gross earnings on its being brought to your Company's standard, and to purchase it on or before December 31st, 1897, at the rate of $9,000 per mile. This line will be necessary to your Company in the event of the construction of a line through Crow's Nest Pass, and in any case it will be quite self-supporting."[9]

The lease and option were entered into on June 1, 1893.

By 1896, therefore, the Canadian Pacific Railway had contemplated the construction of the Crow's Nest Pass Railway for several years. Its construction could not be postponed indefinitely.

In 1896, the directors of the Company reported:

> "But even with these important additions to its facilities for handling the traffic of the mining districts, your Company will continue at a disadvantage in competing with the American lines (which have already reached Nelson, Rossland and other important centres in these districts) until it shall have direct railway connections of its own. Until then the greater part of the mining traffic will be beyond its reach, and will continue to be, as at present, carried by the American lines southward.
>
> "Your Directors are strongly of the opinion that any delay in securing your interests in that direction will be extremely dangerous,—that unless your Company occupies the ground others will, the demand for shipping and travelling facilities being most urgent. The Directors feel that they cannot too strongly urge the immediate construction of a line from Lethbridge to a connection with your Columbia & Kootenay Railway at Nelson, a distance of 325 miles, and anticipating your approval they have already taken steps towards commencement of the work on the opening of spring."[10]

The same Annual Report of the C.P.R. (1896) carries the first reference made in such reports to the possibility of government assistance in the construction of the Crow's Nest Pass line. The reference appears in the following words: "The interests of the country at large are so much concerned

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9 *Canadian Pacific Railway, Annual Report for the year 1892*, p. 12.

10 *Annual Report of the Canadian Pacific Railway Co. for the Fiscal Year Ending December 31st, 1896*, p. 10.

in this question [of a Crow's Nest Pass Railway] that your Directors confidently expect reasonable assistance at the hands of the Dominion Government."[11]

It is thus clear that the Canadian Pacific Railway intended the construction of the Crow's Nest Pass line for several years before it was finally constructed and before there was clear assurance and perhaps even consideration of a government subsidy. Though construction might have been delayed without a subsidy, the construction of the line would nevertheless have taken place. The Company no doubt welcomed the subsidy and the Government freely offered it in order to achieve certain specific purposes which will be dealt with below.

When in 1897 the Liberals introduced into the House the detailed proposals for a subsidy to the Canadian Pacific Railway for the construction of the Crow's Nest Pass Line, the Opposition could object to details but could not oppose the main principle. Sir Charles Tupper's Government had, in fact, in the last session before the general election of 1896 introduced proposals for a Crow's Nest Pass subsidy to the C.P.R. The Conservative proposals—tabled in the House but apparently not debated—had been for a Federal subsidy of $5,000 and a loan of $20,000 per mile of the proposed line.[12] When the Liberal Government set the subsidy at $11,000 per mile with no additional loan provision the opportunity arose to debate the relative generosity of the respective sets of proposals and to attempt to justify the one or the other depending upon political affiliation. A few members suggested in the Debates that the Conservative offer of a $5,000 subsidy and loan of $20,000 per mile was more generous than the Liberal offer of $11,000 subsidy per mile since the loan would probably not be repaid in any case. The concensus of opinion was, however, that the Liberal offer was more generous to the railway and more onerous to the Government, and therefore required to be defended.

The defence of the Liberal offer was made at length by the Minister of Railways and Canals (Mr. Blair) and the Minister of Trade and Commerce (Sir Richard Cartwright). One curious element in this defence was provided by Mr. Blair who insisted, on the one hand, that the Agreement was the best possible one to which the Government could secure C.P.R. assent, while, on the other hand, he informed the House that he did not believe the Company when its officials made the statement that the Company would build the Crow's Nest Pass line even without government aid. On this point he made the following statement:

> "I know that there has been the opinion expressed that possibly the Canadian Pacific Railway would have been able, without assistance at all from the Government, to carry out that undertaking successfully. I know that in the report of a meeting of the shareholders of that company, which was held two months ago, the statement appeared that if the Government did not assist the Canadian Pacific Railway they would take hold of the work themselves without assistance. But I believe that statement was not so much

11 *Ibid.*, pp. 10-11.

12 See Canada, *Debates of the House of Commons*, 1897, statement of Sir Charles Tupper, p. 4530.

> the declaration of a fact within the knowledge of the company itself as a statement put forward perhaps for the purpose of creating an impression for other ends, it may be upon public opinion or the Government of the country, and not that the company was in a position to take up the very large outlay involved by the construction of the line; because I believe that neither the Canadian Pacific Railway nor any other company at this time is so well situated that it would be able, without our aid, to construct the work...."[13]

Both Mr. Blair and Sir Richard Cartwright accepted the view that the Liberal subsidy offer was more generous to the Canadian Pacific Railway than the Conservative offer had been. Their entire justification was, however, that the Conservatives had proposed to exact no condition whatsoever from the railway in exchange for the subsidy and loan, [14] while the Liberal Government, although offering a larger subsidy, were coupling their offer with the exaction of conditions concerning the rates of the Candian Pacific Railway, conditions which would be of the utmost importance to the nation and to its various parts. Mr. Blair, particularly, attacked the earlier subsidy offer because, he argued, it was put forward,

> "—without condition, without stipulation, without seeking to secure from the corporation to which that loan was made any remission of any of the terms and conditions under which they were operating their railway system in Canada—without a single attempt to secure any concessions in the interest of trade, in the interest of the people of the western country, in the interest of those who have been complaining of the incubus which the operation of that great railway imposed upon the country."[15]

Speaking of the conditions exacted from the Canadian Pacific Railway by the Agreement under discussion, Mr. Blair said in part:

> "The committee will have noted that we have sought to ensure the country a large measure of relief from the rates which have obtained since the Canadian Pacific Railway was started. We have imposed conditions upon the company which are very largely restrictive of their present powers. We have embraced in one of the sub-clauses of these resolutions a considerable list of articles which go into very large consumption among the people of the western provinces, and we have secured an agreement on the part of the Canadian Pacific Railway that very substantial reductions will be made upon the existing rates. We have also received the consent, on their part, that the rates upon all goods—[shipped into or out of British Columbia over the Crow's Nest Pass line]—are to be subject to the control and supervision of the Railway Committee of the Privy Council as is the

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13 *Ibid.*, p. 4514.

14 This was readily admitted by the Conservative leader, Sir Charles Tupper. He said, describing the proposals of his Government when in office: "That was an absolute subsidy without any consideration whatever except the prompt construction of the road, and I attached the most vital importance to the prompt construction of the road." Canada, *Debates of the House of Commons*, 1897, p. 4536.

15 *Ibid.*, p. 5347.

case with other railway companies in Canada. To the extent of the shipment of goods from any part of Canada to British Columbia, and the shipment of goods from any part of British Columbia traversed by this line, to any part of Canada, there has been secured in the contract between the Canadian Pacific Railway and the Government, a recision of that existing ten per cent. clause."[16]

Sir Richard Cartwright was at least as emphatic as the Minister of Railways and Canals in stressing the rate concessions which were to be made by the Canadian Pacific Railway in return for the Crow's Nest subsidies. In contrasting the Conservative and the Liberal subsidy proposals he summed up the matter concisely:

"Now the difference between the proposals is practically that we give, if you choose so to call it, some $5,000 or $6,000 per mile to the Canadian Pacific Railway for constructing this line, and we are paying them a further sum of $5,000 or $6,000 in return for valuable privileges to the whole North-west and eastern Canada as well."[17]

The above statement by the Minister not only indicates the contrast between the Liberal and Conservative proposals but also makes clear the belief of the Government that the Crow's Nest Pass Agreement would work to the advantage of all parts of Canada, the East as well as the West.

Since the Crow's Nest Pass subsidy proposals of 1897 were embodied in an agreement, we may attempt to determine, from the discussions relating to the matter, the advantages which the respective contracting parties anticipated from the implementation of the Agreement. Summarizing briefly, the evidence suggests that the Federal Government passed the Crow's Nest Pass Act and entered into the corresponding Agreement with the Canadian Pacific Railway in order to accomplish the following objectives: (1) the more rapid development of the highly promising mining area of southern British Columbia, (2) the effective integration of this area into the Canadian economy in defiance of geographic facts and despite American designs, (3) the enlargement of the prairie and inter-mountain markets for eastern manufacturers through the provision of lower freight rates on the western movement of certain important products, (4) the stimulation of agricultural settlement and general economic expansion in the Prairie Provinces by means of the statutory assurance of lower grain rates and lower rates on the inward movement of capital equipment, and (5) the acceptance by the Canadian Pacific Railway of the principle of governmental rate control in the national interest.

To the Canadian Pacific Railway the Crow's Nest Pass Agreement offered at least the following advantages: (1) the subsidy, more substantial than that offered by the previous Government, would pay, according to their own recorded estimates, upwards of one-half of the cost of the Crow's Nest line; (2) construction of this line would entitle them to a large land subsidy indirectly from the Province of British Columbia; (3) the line would provide an all-rail link between their main line and the Kootenay region; and (4) it would thus be possible to forestall American economic occupation of that wealthy area.

A number of the advocates of the Crow's Nest Pass Agreement stressed the benefits which it would bring to the western wheat grower through

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16 *Ibid.*, p. 4522.
17 *Ibid.*, p. 4541.

lower freight rates. Estimates were put forward that the reductions in grain rates alone would amount to a saving of from one-half to three-quarters of a million dollars per year. One member (Mr. Rutherford) calculated the prospective results in terms of the first twenty years. He said:

> "Taking the present contract, the settlers of Manitoba and the North-west Territories will receive at the least calculation—even though they do not increase in number and even though they do not produce more wheat in that country during the next twenty years than they now produce—the people of that country will have a gross profit of $15,000,000 in twenty years. There is no doubt that the reduction in the freight rates are going to be the means of saving to the people of Manitoba and the North-west of at least $750,000 a year. . . ."[18]

The twenty-year term was doubtless chosen by the member quoted above purely for illustrative purposes. In retrospect, no other illustration could have been so ironical. As events developed, throughout almost the entire interval of the first twenty years of the Crow's Nest Pass Agreement, competition, agreements and voluntary reductions brought and held railway rates in western Canada below the Crow's Nest Pass ceiling. During that time the Agreement was ineffective in holding freight rates down or in providing corresponding benefits to western farmers. The circumstances can be outlined briefly.

The Crow's Nest Pass Agreement provided that the reductions in grain rates were to be put into effect over a two-year period, and they were fully established by September 1, 1899. In January, 1902, the Manitoba Government, acting within the terms of the Manitoba Agreement, ordered reductions in grain rates on the Canadian Northern Railway in Manitoba. The reduction brought grain rates 4 cents (later reduced to 3 cents) below the Crow's Nest level, and reduced rates on other commodities by 15 per cent. Competitively the Canadian Pacific met these rates and subsequently reduced rail rates in Saskatchewan and Alberta by 7½ per cent.

The reduction in railway rates and the multiplication of rail facilities in western Canada after the turn of the century was accompanied by tremendous expansion in settlement and in agricultural production on the plains. Among the various forces which contributed toward this expansion it is impossible to assign relative importance. The reduction in transportation costs undoubtedly contributed in substantial measure. The dividend record of the Canadian Pacific Railway clearly indicates that the Company shared in generous and increasing measure in the prosperity of the Canadian economy after 1900.

After 1902 it was not until late in the first world war that any serious question arose as to the effectiveness of the Crow's Nest Pass Agreement in limiting an increase in railway rates. In 1917 the Board of Railway Commissioners heard an application of the railway companies for a recommendation to the Governor-in-Council under the War Measures Act for a general advance of 15 per cent. in freight and passenger rates. The railways contended that increased costs made it impossible for them to render adequate service on the basis of existing rates. Observing that to grant the increase asked for would, in western Canada, run counter to the Manitoba

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18 *Ibid.*, p. 4570.

Agreement and would raise rates on grain and other specified products to a level above that permitted by the Crow's Nest Agreement, the Board was forced to decide whether or not it was bound by these Agreements. The Board held that it was not bound by the Manitoba Agreement but was bound by the Crow's Nest Agreement. It accordingly granted the 15 per cent. increase subject to the limits set by the Crow's Nest Agreement. In view of appeals which were brought against the Board's award, the effective date for the new rates on wheat was set at June 1, 1918, and on other commodities at March 15, 1918.

Meanwhile the Federal Government ordered (P.C. 1768) wage increases for Canadian railway workers in recognition of the McAdoo Award in the United States, the wage increases to be effective August 1, 1918. In the same Order the Board of Railway Commissioners was directed to prepare a new schedule of all freight rates. The new schedule was established by Order in Council (P.C. 1863) effective August 12, 1918. The increase provided for in the new schedule was, generally speaking, 25 per cent., with the proviso that in territory west of Fort William this figure should include the previously granted increase while east of Fort William it was to be additional to the 15 per cent. increase.

The new grain rates established as of August 12, 1918, were above the Crow's Nest Agreement level. The suspension of this Agreement, thus first effected by Order in Council, was ratified by amendment to the Railway Act in 1919 (Section 325, Sub-section 5), the suspension to continue for three additional years—that is, to July 7, 1922.

In the period from January, 1902 to August, 1918, the Crow's Nest Pass Agreement effectively held down western grain rates only during the short interval from June 1, 1918 to August 12, 1918.

Table 1 illustrates the changes in western grain rates since 1897.

**TABLE I**

**Grain Rates to Fort William** (a)

(in cents per 100 pounds with index numbers based on Crow's Nest Pass Agreement Rates = 100)

| | From Winnipeg | | From Regina | | From Calgary | |
|---|---|---|---|---|---|---|
| Date or Period | Rate | Index | Rate | Index | Rate | Index |
| 1897(b) . . . . . . . . . . . . . . | 14 | 100.0 | 20 | 100.0 | 26 | 100.0 |
| Jan., 1902-June, 1918 . . | 10 | 71.4 | 18 | 90.0 | 24 | 92.3 |
| June, 1918-Aug., 1918 . . | 12 | 85.7 | 20 | 100.0 | 26 | 100.0 |
| Aug., 1918-Sept., 1920 . . | 14 | 100.0 | 24 | 120.0 | 30 | 115.4 |
| Sept., 1920-Jan., 1921 . . | 19 | 135.7 | 32.5 | 162.5 | 40.5 | 155.8 |
| Jan., 1921-Dec., 1921 . . | 18 | 128.6 | 31 | 155.0 | 39 | 150.0 |
| Dec., 1921-July, 1922 . . | 17 | 121.4 | 29 | 145.0 | 36 | 138.5 |
| After July, 1922. . . . . . . . | 14 | 100.0 | 20 | 100.0 | 26 | 100.0 |

(a) Adapted from Table in *Index Numbers of Railway Freight Rates*, 1913-1936 (Ottawa, 1938), p. 9.

(b) Crow's Nest Pass Agreement Rates, fully effective by Sept. 1, 1899

The suspension of the Crow's Nest Pass Agreement in 1918 was effected under authority of the War Measures Act and was justified before the Parliament and people of Canada as a temporary measure designed to meet an emergency condition. Its suspension under these circumstances could in no way be regarded as based on a reasoned decision that the terms of the Agreement had been fully accomplished by the contracting parties or that those terms were no longer in accord with realities. Nevertheless, in 1922, as the time approached for the expiration of the suspension of the Agreement, the Canadian Pacific Railway made every effort to have the Agreement abrogated entirely, or, at the least, to have its suspension prolonged.

There would be little purpose in reviewing in detail the Parliamentary and Special Committee discussions which preceded the restoration of the Crow's Nest Pass Agreement. These discussions did, however, for the first time provide an opportunity for western members and farm leaders to record their views as to the importance of Crow's Nest Pass rates. Some at least of the western representatives recalled that the Crow's Nest Pass rates were put into effect by the Canadian Pacific Railway in fulfilment of its part of an agreement for which it had received full consideration from the people of Canada. It was also pointed out that the rate commitment of the Railway would be useless if it were to be waived at any time that it proved inconvenient to the Railway. Generally speaking, however, the western representations were concerned with stressing the extreme importance of Crow's Nest rates to the economic welfare of the highly-specialized, wheat-growing prairie economy. The West had developed on the basis of Crow's Nest rates and in reliance on their statutory stability. The Crow's Nest Pass Agreement was referred to as the western settler's "bill of rights." The very general alarm of the residents of the Prairie Provinces was expressed at the suggestion that the Agreement should be abrogated or that its suspension should be further extended.

In June, 1922, the Railway Act of 1919 was amended in regard to the provision for the suspension of the Crow's Nest Pass Agreement. The amendment provided that Crow's Nest Pass rates should be restored on grain and flour as of July 6, 1922, but that the suspension of the Agreement as applied to westbound traffic should continue until July, 1923, and for an additional year at the option of the Governor-in-Council. The extension was authorized in 1923 but in 1924 the railways were directed to restore Crow's Nest Pass rates on westbound traffic. Then followed an extremely tumultuous period in which the railways adopted delaying tactics, arguments were heard and orders were made by the Board of Railway Commissioners, appeals were heard and judgments were given by the Supreme Court. Finally, Parliament intervened and amended the Railway Act so as to cancel Crow's Nest rates on all commodities other than grain and flour. This amendment was effective as of July 23, 1925, and since that date the Crow's Nest Pass limitation on rates has not existed except for grain and flour.

A frequent complaint of the railways concerning Crow's Nest Pass rates is that, in the course of time, they have been extended geographically to cover a great deal of traffic which was not contemplated in the original Agreement. The main problem in this regard concerned the rates which should be applied on Crow's Nest commodities from and to shipping points which did not exist in 1897 on lines which had not been constructed in

1897. Both the Canadian Pacific and the Canadian National Railways were involved in this matter, in that by far the greater proportion of the western lines of both railways was constructed after the Crow's Nest Pass Agreement was made. Competition and the necessity of avoiding discrimination originally led to the extension of Crow's Nest Pass rates to the new shipping points. Eventually, in 1925 Parliament enacted the present Section 325 (5) and (6) of the Railway Act (*Statutes of Canada* 1925, 15-16 Geo. V, c. 52) which in effect made the extension compulsory for grain and flour. In 1927, by General Order No. 448, the Board of Railway Commissioners specifically directed the Canadian Pacific and all other railways to adjust rates on grain and flour from all western points to Fort William to the Crow's Nest Pass level. In the same year (1927) the Board directed that rates on grain and flour moving through Pacific coast ports for export should be reduced to the Crow's Nest Pass level.

It is true, therefore, that the Crow's Nest Pass structure of rates has been extended geographically in so far as grain and flour are concerned. It is also true, however, as pointed out above, that since July, 1925, the Crow's Nest Pass Agreement has ceased to exist for commodities other than grain and flour. The result is that since that time the railways have been freed from the statutory limitations of the original Agreement which placed a ceiling on rates on a substantial list of capital-goods items moving into the Prairie region from eastern Canada. This is a considerable but incalculable concession to the railways. We repeat, therefore, and respectfully emphasize at this point, the fact that the alterations which have been made in the Crow's Nest Pass Agreement over the years have by no means all been in the direction of placing additional burdens on the railways.

The Crow's Nest Pass rates on grain and flour remained in effect throughout the nineteen-thirties, as they do today. Throughout that calamitous decade the sorely pressed producers in the Prairie Provinces made no serious attempt to force the railways to establish grain rates below the maximum allowed by the Crow's Nest Pass Agreement. The same producers reject with all possible emphasis those arguments which are now put forward in an attempt to demonstrate that the Crow's Nest Pass Agreement has attained its purposes and must be abandoned.

The Crow's Nest grain rates represent established national policy, the alteration of which would be ruinous to the wheat-growing areas. The Provinces of Alberta, Saskatchewan and Manitoba submit that the grain rates fixed by the Crow's Nest Pass Agreement constitute one of the basic conditions upon which the western agricultural economy was established and developed and which have enabled it to play its part in the economic life of the Dominion. The urgent national necessity for the promotion of settlement and western economic development induced the Government to enter into the Crow's Nest Pass Agreement. The rate concessions provided for in the Agreement were designed to assist in reducing the barrier which geography imposed between the producing plains and the markets of the world. The considerations which, at the turn of the century, gave rise to Parliamentary action with respect to grain rates are as valid today as then. In fact, experience has demonstrated and emphasized the importance of an additional relevant circumstance, the inherent instability of an econoomy so dependent on the vagaries of nature.

Stability of transportation costs at the lowest possible level is absolutely essential to the survival of the wheat economy. This at one and the same time imposes the necessity for the continuation of Crow's Nest grain rates and for the protection of their integrity by Statute. The continued ability of the Prairie Provinces to play their part in the Canadian economy is dependent upon the prosperity of the wheat producers. Stable grain rates at a minimum cost are essential to that prosperity.

# PART II

## ECONOMIC IMPLICATIONS OF THE CROW'S NEST PASS GRAIN RATES

Part I of this Submission has analyzed certain historical aspects of the Crow's Nest Pass Agreement and Rates. In that Part it was pointed out that the Crow's Nest Agreement was one of the important elements of the National Policy and that it remains today inextricably bound up with other elements of that same policy including the tariff, east-west trade, and the development of the prairie economy. In this Part we are concerned with certain arguments which seek to prove that altered conditions find the Crow's Nest grain rates no longer a suitable means for serving the ends of National Policy. In particular the disabilities allegedly resulting from these statutory rates will be analyzed.

One of the issues which has been raised by the opponents of the Crow's Nest rates concerns their removal from the jurisdiction of the Board of Transport Commissioners. It has been argued that it is not only wrong in principle but detrimental to sound rate-making and to the efficient operation of a railway undertaking to remove a part of the rate structure from the jurisdiction of the Board.[19]

It can be agreed that railway rate control in Canada has been directed to the prescription of certain minimum requirements for just and reasonable rates. As counsel for the Canadian Pacific Railway has stated before this Commission, "our rates having had the approval as to the standard rates under section 330 are, *prima facie*, just and reasonable rates."[20] This means that any rate which is below the standard rate (the highest in the book) is automatically just and reasonable. The procedure adopted in 1903, when the Board of Transport Commissioners was formed, remains substantially unaltered and establishes only the maximum rate schedules. The Canadian Pacific Railway's own words are, "since the first Canadian Railway Act, [1868] regulation of Canadian railways has not basically altered, . . ."[21] The result is that the railways have fixed more than 95 per cent. of the effective rates at a level below the approved maxima.[22]

The railways have enjoyed a wide latitude in their rate-making power. As a consequence, for the past fifty years a large segment of the rate structure has virtually been removed from the jurisdiction of the Board. Except for the approved maxima this segment has been under the direct control

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[19] See *Submission of Canadian Pacific Railway Company to the Royal Commission on Transportation* (Montreal 1949) Part 1, p. 152.

[20] See *Transcript of Evidence, Royal Commission on Transportation*, Vol. 63, p. 13192.

[21] See *Submission of Canadian Pacific Railway Company*, Part I, p. 144.

[22] See *Transcript of Evidence, Royal Commission on Transportation*, Vol. 81, p. 16110.

of the railways. Talk of a wrong principle cannot be entertained especially when such talk stems from railways vociferous in demanding wide rate-making power for themselves.[23]

It is agreed that the Board of Transport Commissioners is not today, and should not be made, an Economic Planning Board. Indeed, it is apparent from certain Statutes and decisions [24] that the functions of the Board do not include economic planning and resource development. The significance of this cannot be overlooked when considering the statutory rates on grain.

The production and marketing of grain in western Canada is of crucial importance to regional and national welfare, as Part I of this Submission has indicated. It is of such importance that the economic policy applicable thereto has been the direct and continuing concern of the National Government.[25] The transportation charges on grain, as part of the marketing problem, are an integral part of such economic policy and have been, and continue to be, positively bound up with the other elements of such policy.

Direct Government action aimed at implementing broad national policies cannot be circumscribed by the demand to have segments of that policy determined by an appointed tribunal unless it can be conclusively demonstrated that in the absence of such delegation the efficiency of the tribunal itself is seriously impaired.

Before discussing arguments which seek to show that in the absence of a delegation of power such as that already referred to, the Board is unable satisfactorily to perform its functions, there is one other matter dealing with the general principle which should be mentioned. In support of the attack upon the principle of removing from the jurisdiction of the Board a segment of the rate structure, the experience in the United States with the land-grant rates has been put forward. Indeed, it has been suggested that the inherent wrong of having certain rates removed from the control of the administrative tribunal was recognized by the United States Congress when the statutory reduction resulting from the land-grant provisions in the Interstate Commerce Act was repealed in 1945.[26]

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[23] The limitations the Board sees in its powers are apparent from the following extract from a letter of the Secretary. See *Transcript of Evidence, Royal Commission on Transportation*, Vol. 17, p. 3265: "The Board's powers are necessarily limited to questions of unjust discrimination in regard to competitive rates and not as to the reasonableness of the rates".

[24] *The Maritime Freight Rates Act* (R.S.C. 1927, c. 79) is an example of a Statute. For a decision see *Fraser Valley—Surrey Farmers' Co-operative Ass'n.* et al. *v. C.P.R.* & *C.N.R.* (1935) 43 C.R C. 97.

[25] See *Report of the Royal Commission on Dominion-Provincial Relations*, King's Printer, Ottawa, 1940, especially Book 1, Chap. 3, p. 66 and following. See also *Order-in-Council P.C. 886 of 5th June, 1925*, which states in part: "The Committee are further of the opinion that as the production and export of grain and flour forms one of the chief assets of the Dominion . . ."

[26] See *Submission of Canadian Pacific Railway Company*, Part I, p. 152.

The reasons for repealing the land-grant rate provisions in the United States do not support any argument respecting incorrect principles. These rates were altered for very practical reasons, not upon a consideration of principle. The primary reason for repealing the land-grant rates was that Congress considered that they had served their intended purpose. Secondary reasons such as the ever increasing extent of Government traffic, the practical difficulties of determining land-grant reductions, the discrimination created between different Government contractors and the discrimination created between different railways were also of importance.

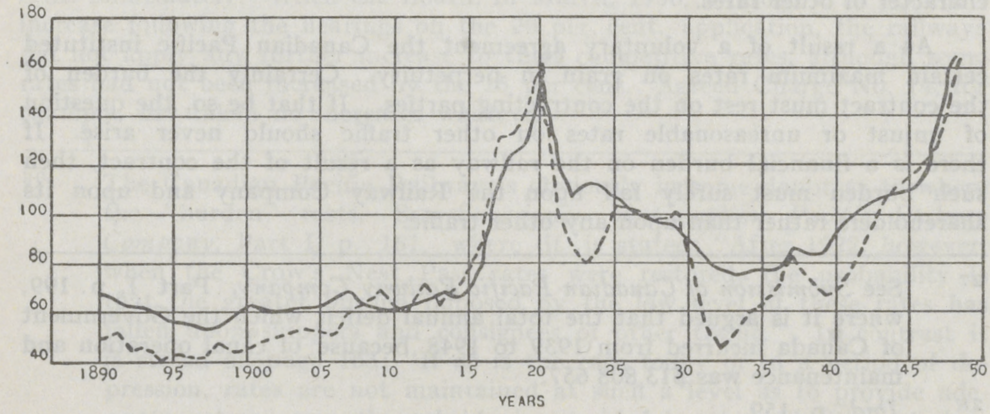
While these reasons may have been good and sufficient in the United States, they have no relevance to the Canadian situation. Land-grant rates may have served their purpose in the United States, but the same cannot be said of the Crow's Nest grain rates.

The necessity for statutory grain rates is as strong, if not stronger today than it was when they were originally implemented. It has frequently been pointed out that the basic agricultural problem in western Canada results from instability and a one-crop dependence. When the national economy had a tendency to flexibility, in the sense that institutional rigidities were of minor importance, the economic burden of the western grain producer was much less acute than it is today. All the major aspects of our economy with the notable exception of agriculture are now predominantly rigid.

The implications of rigidity for the western farm economy are highly significant. The prairie farmer competing in the world market is the first to feel the impact of income reduction. At the same time the costs of the things which he purchases are the last to decline. A national economy relying to an important extent upon agriculture as it did in the late nineties, exhibits a tendency to sympathize with agricultural welfare. Today that is not the case as Figure I indicates. Production instabilities due to drought and other physical factors, and precipitous price changes, do not find a sympathetic reaction in the non-agricultural segments of the economy.

## FIGURE I

### Indexes of Farm and Non-Farm Prices 1890-1948




Farm Prices - - - - - -          Non-Farm ————          1926=100

It has frequently been pointed out that the burden of freight rates varies in different sections of Canada. There are a number of reasons for this. Important among these are the differing competitive conditions which exist. As is well known, the railways in eastern Canada have a maximum placed on many of their charges by the operation of water and truck competition. For fifty years the effects of water competition, and lately of truck competition, have been extensive and have served to reduce many of the rates to something much less than the normal tolls.[27] These competitive rates make a smaller contribution to railway costs than the normal tolls would make.

The Crow's Nest grain rates in western Canada were in part the result of a deliberate attempt by Parliament to compensate the prairie region in some measure for the lack of competitive transport. Given a complete equalization of standard and non-competitive rates there would still be a substantial difference in the mile for mile charges paid by traffic in the various sections of Canada. Any determination of whether grain rates should remain statutory must take cognizance of this fact.

Although it has been suggested[28] that statutory rates insinuate themselves beyond the intention of the statute, this cannot be a serious impediment. It is alleged that bran and middlings and other by-products of the milling industry are carried at Crow's Nest Pass rates because of the statute. This is a half-truth. They are carried at the same rate as grain or flour because of the milling-in-transit privilege. The statute established the maximum rates on grain and flour, but the milling-in-transit privilege determines the relationship between grain and flour, and milling by-products. The cost of extending the Crow's Nest Pass rates to such things as brewers' and distillers' dried grain and beet pulp residue is infinitesimal.

It has been argued that the existence of statutory rates militates against the establishment of just and reasonable rates for traffic other than that which is handled at the statutory level.[29]

This argument is premised upon the assumption that grain rates under the statute do not in themselves provide a satisfactory return to the carrier. If the grain rates pay their way, on a reasonably compensatory basis, the fact that they are fixed by statute cannot affect the just and reasonable character of other rates.

As a result of a voluntary agreement the Canadian Pacific instituted certain maximum rates on grain in perpetuity. Certainly the burden of the contract must rest on the contracting parties. If that be so, the question of unjust or unreasonable rates on other traffic should never arise. If there is a financial burden on the railway as a result of the contract, then such burden must surely fall upon the Railway Company and upon its shareholders rather than upon any other traffic.

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27 See *Submission of Canadian Pacific Railway Company*, Part I, p. 199, where it is argued that the total annual deficit which the Government of Canada incurred from 1939 to 1948 because of canal operation and maintenance was $13,808,657.

28 *Ibid.*, p. 159.

29 *Ibid.*, p. 152.

All increase applications by the railways have been premised upon the alleged financial need of the Canadian Pacific Railway. Such financial need is a result of the over-all operation of the Railway and in the absence of a specific allocation to cover the contractual obligation arising from the Crow's Nest Agreement, this procedure may have allowed the Railway to shift its obligation to other traffic. If this be the case surely it cannot be used as an argument for removing the statutory grain rates.[30]

The relative position of statutory and non-statutory rates in the face of percentage increases must also be considered. Percentage increases apply only to the normal rates. Whether they apply or do not apply to competitive rates is within the competence of the railways to determine.

Recent history in connection with this particular matter is of interest. During the course of the 30% Case before the Board of Transport Commissioners, wartime restrictions on freight rate increases were removed by Order No. 757 of the Wartime Prices and Trade Board. The railways promptly filed tariffs increasing all competitive rates by thirty per cent.

The railways suggested that a careful analysis of the competitive rate situation indicated that all competitive rates could take a 30 per cent. increase. At page 14115 of the Transcript of Proceedings of the 30% Case a discussion between the Chief Commissioner and Counsel for the Canadian National Railways is recorded. On behalf of the railways it was stated:

> "Now Mr. Knowles told your Board, and Mr. Jefferson said the same thing, we are of the opinion that we could increase all rates 30 per cent, including the competitive rates and that our competitors will be delighted if we do so because they are working under the same difficulties as we are, their costs have gone up just as ours have, and they said, their considered opinion was, that they could increase those rates by 30 per cent and still hold the traffic."

Notwithstanding this expressed view, when the 30% Case was determined and a 21 per cent. increase granted in April, 1948, the competitive rates were increased only 21 per cent.

Later in the same year the railways applied for an interim rate increase of 15 per cent. and a total increase of 20 per cent. On the strength of this anticipated interim increase many competitive rates were raised by 15 per cent. immediately. When the Board, in March, 1950, awarded a 16 per cent. increase following the hearings on the 20 per cent. application, the railways did not apply any further increase to their competitive rates, although some rates had not been increased by the 15 per cent. Agreed Charge No. 14, for example, has taken no increases whatever.

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30 The Canadian Pacific Railway is obviously in some doubt as to where the "burden" rests. See *Submission of Canadian Pacific Railway Company*, Part I, p. 161, where it is stated: "After 1922, however, when the Crow's Nest Pass rates were restored, the probability is that the greater burden imposed by the low level of these rates has fallen upon shippers and consignees of other traffic." In contrast it is stated on page 163: "If as is the case today or in a period of depression, rates are not maintained at such a level as to provide adequate net revenue, the subsidy is provided by the railways and their shareholders."

It is perfectly clear from the action of the railways in these increase cases that it is their intention to deal with competitive rates regardless of the difference which exists between competitive rates and standard charges. Although some competitive rates have been cancelled or amended without regard to the percentage increases, the vast bulk of the competitive rates have increased 1 per cent. less than the normal tolls. The absolute difference between these two types of rates is now much greater than it was prior to April, 1948, as Table II indicates.

### TABLE II

### An Illustration of the Effect on Canned Goods Rates of the Recent Percentage Increases

| From Hamilton to | Miles | Before the percentage increases, April, 1948 | After two general increases, April, 1950 | INCREASE Cents per cwt. | INCREASE Per cent. of original rate |
|---|---|---|---|---|---|
| | | cents (per cwt.) | cents (per cwt.) | | |
| Montreal, Que.......... | 373 | 35 | 48 | 13 | 37 |
| Halifax, N.S............ | 1,172 | 61* | 86 | 25 | 40 |
| Winnipeg, Manitoba.... | 1,246 | 114 | 160 | 46 | 40 |
| Edmonton, Alberta .... | 2,039 | 198 | 278 | 80 | 40 |
| Grande Prairie, Alta. ... | 2,442 | 231 | 325 | 84 | 40 |
| Vancouver, B.C......... | 2,730 | 96 | 140 | 44 | 46 |

* Winter rate.

It is apparent, therefore, that there are great differences between classes of non-statutory rates. As far as the percentage increases are concerned, the fact that the competitive rates do not automatically take them does not necessarily militate against the establishment of just and reasonable rates on other traffic. By the same token the fact that the Crow's Nest rates do not take percentage increases does not necessarily militate against the establishment of just and reasonable rates on other traffic.

Although the current concern is with the problem of increases, it must be remembered that in the event of decreases the grain rates would remain at their present level. It has already been emphasized in the concluding section of Part I that the farmers of western Canada have paid proportionately more in one period and proportionately less in another because the transportation charges on grain have remained fixed.

It has been suggested that a rate established in 1897 is obviously an unreasonable one under today's conditions.[31] There are many rates today which move traffic other than grain at a charge below the level which obtained in 1897, and certainly these are not obviously unreasonable. Many rates made to meet truck and water competition which has developed since 1897 are well below the 1897 level. Table III gives several illustrations of this type of rate within Alberta. Similar illustrations may be found in all areas of Canada.

31 *Ibid.*, p. 162.

## TABLE III

### Some Illustrations of Present Rates on First Class Traffic, Which Rates are Below the 1897 Level

| Stations | Present Rate[1] in cents | 1897 Rate in cents |
|---|---|---|
| Calgary to Red Deer | 41 | 53 |
| Calgary to Lethbridge | 41 | 69 |
| Edmonton to Camrose | 29 | 35 |
| Canmore to Golden | 95 | 108 |

[1] The present rates include charges for a pick-up and delivery service which was not given in 1897.

Rates which were established in 1897 are not obviously unreasonable under today's conditions. Technological advances [32] have been too great and traffic changes too many, automatically, to assume this. In addition it is impossible to assume that the original rates were just and reasonable in the absence of a regulatory tribunal at that time. Even the suggestion that the rates were appropriate to the price of the product is questionable. It could just as well be said that the rates were appropriate to a dividend rate on Canadian Pacific Railway stock of 10 per cent. or to a net return of $42.84 on each $100.00 of gross earnings.[33]

It has been alleged that the similarity in circumstances surrounding the production of grain in western Canada as compared with contiguous areas of the United States makes it pertinent to examine and compare the grain rates which are applicable in these two countries.[34] Such a comparison is entirely irrelevant because the economic circumstances and conditions in these two countries show such a wide difference.

Spring wheat is not normally an export product in the United States. Table IV gives the total United States exports of wheat and the exports of hard red spring wheat for alternate years from 1925 to 1945.

This Table makes it apparent that the American spring wheat is on a domestic basis.

The American spring wheat crop has not been priced on an export basis for 25 years. Any American spring wheat that has found its way into export channels has been dumped there. There are several reasons for this situation.

[32] *Ibid.*, Appendix to Part I, p. 28.

[33] *Ibid.*, Appendix to Part I, p. 27.

[34] *Ibid.*, Part I, p. 165.

## TABLE IV

### United States Exports of Wheat by Types

| Year beginning July | Hard Red Spring [1] | Total All Wheat [2] |
|---|---|---|
| 1925 | 4,958,000 | 63,189,000 |
| 1927 | 6,000,000 | 145,999,000 |
| 1929 | 1,900,000 | 92,175,000 |
| 1931 | [3] | 96,521,000 |
| 1933 | [3] | 18,799,000 |
| 1935 | [3] | 311,000 |
| 1937 | 2,000,000 | 83,740,000 |
| 1939 | 5,000,000 | 23,636,000 |
| 1941 | 2,000,000 | 12,632,000 |
| 1943 | 14,000,000 | 11,942,000 |
| 1945 | 53,000,000 | 226,135,000 |

1—*Agricultural Statistics, U.S. Department of Agriculture.*
2—*Statistical Abstract of the U.S. Department of Commerce.*
3—*Less than 500,000 bushels.*

As we previously explained, the spring wheat crop is utilized domestically. The fact that domestic demand can take care of the crop and the fact that there is a substantial protection for the market enables the wheat producer to maintain a price in keeping with the general domestic level. This creates an important dissimilarity between the American and the Canadian situation. In addition, since the end of the First World War, the United States Government has shown a paternal interest in the welfare of the wheat producer. This interest has evidenced itself in price subsidization, production control, storage programmes, programmes to stimulate demand, and direct producer payments. These activities have had a profound effect upon the returns to the American producer. While precise figures are not available to indicate the extent of the aid received by the American farmer from the activities of his Government in this particular regard, there is no doubt that in total they account for many millions of dollars.

Aside from these two important differences, the transportation characteristics of the American and Canadian wheat-producing areas are different. The wheat grown in North Dakota which comprises roughly 50 per cent. of the total spring wheat production of the United States moves an average of four hundred and fifty miles to a lake terminal. The wheat grown in Minnesota moves an average of two hundred miles while that grown in South Dakota has an average rail haul of three hundred and fifty miles. Montana, the producing area most distant from lake transport has an average haul of one thousand miles. Looking at the other spring wheat producers we find that in Washington, which accounts for a large proportion of the far western wheat crop, the Big Bend country is situated two hundred and fifty miles from the sea coast. In Oregon the average haul is less than two hundred miles where most of the wheat moves by barge down the Columbia River. Idaho is four hundred miles from the west coast.

In the United States spring wheat area as a whole the average haul is less than four hundred miles. This is to be compared with the average haul in Canada of seven hundred and seventy miles.

The United States winter wheat belt originates most of the export wheat. Kansas is the centre of the winter wheat belt and in certain years has produced as much wheat as western Canada has exported. The wheat from Kansas moves either to Chicago or to the Gulf ports for shipment. In the winter wheat area the average haul to water (either Chicago or the Gulf Coast) is six hundred miles.

It is apparent that the relative circumstances and conditions in Canada and the United States make it impossible to draw any conclusions about the appropriate level of freight rates in Canada. Even if it were possible to protect the Canadian farmer from the vicissitudes of international trade to the extent that the American farmer has obtained that protection, it would still be highly questionable whether it would be possible to make rate comparisons which were meaningful. Under the present circumstance such comparisons are entirely useless.

The present export freight rates on grain and flour are all that remain of the original Crow's Nest Agreement of 1897. During the past thirty years the Canadian Pacific Railway has succeeded in divesting itself of all but one of the original binding provisions of the contract. They now seek to abolish the agreement in its entirety. The arguments which have been put forward for the purpose of showing that statutory rates are wrong in principle are not upon consideration persuasive. On the contrary, there are sound historical reasons for the continued application of the statutory rates on grain. There is no matter of principle involved in the determination of this problem. It cannot be shown that other rates are at an unjust or unreasonable level because of the statutory rate. Although production-wise the American spring wheat belt may be comparable with western Canada, market-wise and transportation-wise no useful comparison may be made. Statutory rates on grain are as necessary today as they were when originally introduced. The farm economy of western Canada still demands that the Crow's Nest Pass rates on grain remain unaltered.

# APPENDIX

## 60-61 Victoria, Chapter 5.

## An Act to authorize a Subsidy for a Railway through the Crow's Nest Pass

[Assented to 29th June, 1897.]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subject to the conditions hereinafter mentioned, the Governor in Council may grant to the Canadian Pacific Railway Company a subsidy towards the construction of a railway from Lethbridge, in the district of Alberta, through the Crow's Nest Pass to Nelson, in the province of British Columbia (which railway is hereinafter called "the Crow's Nest Line,") to the extent of eleven thousand dollars per mile thereof, and not exceeding in the whole the sum of three million six hundred and thirty thousand dollars, payable by instalments on the completion of each of the several sections of the said railway of the length respectively of not less than ten miles, and the remainder on the completion of the whole of the said railway; provided that an agreement between the Government and the Company is first entered into in such form as the Governor in Council thinks fit, containing covenants to the following effect, that is to say:—

On the part of the Company:

(a.) That the Company will construct or cause to be constructed, the said railway upon such route and according to such descriptions and specifications and within such time or times as are provided for in the said agreement, and, when completed, will operate the said railway for ever;

(b.) That the said line of railway shall be constructed through the town of Macleod, and a station shall be established therein, unless the Governor in Council is satisfied by the Company that there is good cause for constructing the railway outside the limits of the said town, in which case the said line of railway shall be located and a station established at a distance not greater than five hundred yards from the limits of the said town;

(c.) That so soon as the said railway is opened for traffic to Kootenay Lake, the local rates and tolls on the railway and on any other railway used in connection therewith and now or hereafter owned or leased by or operated on account of the Company south of the Company's main line in British Columbia, as well as the rates and tolls between any point on any such line or lines of railway and any point on the main line of the Company throughout Canada, or any other railway owned or leased by or operated on account of the Company, including its lines of steamers in British Columbia, shall be first approved by the Governor in Council or by a Railway Commission, if and when such Commission is established by law, and shall at all times thereafter and from time to time be subject to revision and control in the manner aforesaid;

(d.) That a reduction shall be made in the general rates and tolls of the Company as now charged, or as contained in its present freight tariff, whichever rates are now the lowest, for carloads or otherwise, upon the classes of merchandise hereinafter mentioned, westbound, from and including Fort William and all points east of Fort William on the Company's railway to all points west of Fort William on the Company's main line, or on any line of railway throughout Canada owned or leased by or operated on account of the Company, whether the shipment is by all rail line or by lake and rail, such reduction to be to the extent of the following percentages respectively, namely:—

Upon all green and fresh fruits, 33⅓ per cent;

Coal oil, 20 per cent;

Cordage and binder twine, 10 per cent;

Agricultural implements of all kinds, set up or in parts, 10 per cent;

Iron, including bar, band, Canada plates, galvanized, sheet, pipe, pipe-fittings, nails, spikes and horse shoes, 10 per cent;

All kinds of wire, 10 per cent;

Window glass, 10 per cent;

Paper for building and roofing purposes, 10 per cent;

Roofing felt, box and packing, 10 per cent;

Paints of all kinds and oils, 10 per cent;

Live stock, 10 per cent;

Wooden ware, 10 per cent;

Household furniture, 10 per cent;

And that no higher rates than such reduced rates or tolls shall be hereafter charged by the Company upon any such merchandise carried by the Company between the points aforesaid; such reductions to take effect on or before the first of January, one thousand eight hundred and ninety-eight;

(e.) That there shall be a reduction in the Company's present rates and tolls on grain and flour from all points on its main line, branches, or connections, west of Fort William to Fort William and Port Arthur and all points east, of three cents per one hundred pounds, to take effect in the following manner:—One and one-half cent per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-eight, and an additional one and one-half cent per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-nine; and that no higher rates than such reduced rates or tolls shall be charged after the dates mentioned on such merchandise from the points aforesaid;

(f.) That the Railway Committee of the Privy Council may grant running powers over the said line of railway and all its branches and connections, or any portions thereof, and all lines of railway now or hereafter owned or leased by or operated on account of the Company in British Columbia south of the Company's main line of railway, and the necessary use of its tracks, stations and station grounds, to any other railway company applying for such grant upon such terms as such Committee may fix and determine, and according to the provisions of *The Railway Act* and of such

other general Acts relating to railways as are from time to time passed by Parliament; but nothing herein shall be held to imply that such running powers might not be so granted without the special provision herein contained;

(g.) That the said railway, when constructed, together with that portion of the Company's railway from Dunmore to Lethbridge, and all lines of railway, branches, connections and extensions in British Columbia south of the main line of the Company in British Columbia shall be subject to the provisions of *The Railway Act,* and of such other general Acts relating to railways as are from time to time passed by Parliament;

(h.) That if the Company or any other company with whom it shall have any arrangement on the subject shall, by constructing the said railway or any part of it, as stipulated for in the said agreement, become entitled to and shall get any land as a subsidy from the Government of British Columbia, then such lands, excepting therefrom those which in the opinion of the Director of the Geological Survey of Canada (expressed in writing) are coal-bearing lands, shall be disposed of by the Company or by such other company to the public according to regulations and at prices not exceeding these prescribed from time to time by the Governor in Council, having regard to the then existing provincial regulations applicable thereto; the expression "lands" including all mineral and timber thereon which shall be disposed of as aforesaid, either with or without the land, as the Governor in Council may direct;

(i.) That if the Company or any other company with whom it shall have any arrangement on the subject shall, by constructing the said railway or any part of it as stipulated for in the said agreement, become entitled to and shall get any lands as a subsidy from the Government of British Columbia which in the opinion of the Director of the Geological Survey of Canada (expressed in writing) are coal-bearing lands, then the Company will cause to be conveyed to the Crown, in the interest of Canada, a portion thereof to the extent of fifty thousand acres, the same to be of equal value per acre as coal lands with the residue of such lands. The said fifty thousand acres to be selected by the Government in such fair and equitable manner as may be determined by the Governor in Council, and to be thereafter held or disposed of or otherwise dealt with by the Government as it may think fit on such conditions, if any, as may be prescribed by the Governor in Council, for the purpose of securing a sufficient and suitable supply of coal to the public at reasonable prices, not exceeding two dollars per ton of two thousand pounds free on board cars at the mines.

And on the part of the Government, to pay the said subsidy by instalments as aforesaid.

2. The Company shall be bound to carry out in all respects the said agreement, and may do whatever is necessary for that purpose.

3. In order to facilitate such financial arrangements as will enable the Company to complete the railway as aforesaid without delay and to acquire and consolidate with it the railway from Dunmore to Lethbridge, hereinafter called "the Alberta Branch," which, under the authority of chapter thirty-eight of the statutes of 1893, it now operates as lessee, and is under convenant

to purchase, the Company may issue bonds which will be a first lien and charge and be secured exclusively upon the said Alberta Branch and Crow's Nest line together in the same way and with the same effect as if both the said pieces of railway to be so consolidated were being built by the Company as one branch of its railway within the meaning of section one of chapter fifty-one of the statutes of 1888, and that section shall apply accordingly, such first lien to be subject to the payment of the purchase money of the Alberta Branch, as provided for in the said covenant to purchase.